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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,257	02/14/2002	Chih-Pin Liu	1954-313	5061

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EXAMINER

VANDERVEGT, FRANCOIS P

ART UNIT PAPER NUMBER

1644

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/074,257

Applicant(s)

LIU ET AL.

Examiner

F. Pierre VanderVegt

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 11-16, 23-25, 32-34, 53 and 54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 11-16, 24 and 53 is/are allowed.
- 6) ☒ Claim(s) 23 and 54 is/are rejected.
- 7) ☒ Claim(s) 24, 25 and 32-34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

This application claims the benefit of the filing date of provisional application 60/268,714.

Claims 5-10, 17-22, 26-31 and 35-52 have been canceled.

Claims 1-4, 11-16, 23-25, 32-34 and 53-54 are currently pending.

In view of Applicant's amendment and the declaration of inventors Chih-Pin Liu and Wei-Jen Lin, no outstanding ground of rejection is maintained.

The following represents a new ground of rejection that has not been necessitated by Applicant's amendment. Accordingly, the present Office Action is made NON-FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 23 and 54 are rejected under 35 U.S.C. 102(b) as being anticipated by Tisch et al. (J. Immunol. [1999] 163:1178-1187; cited on form PTO-1449 filed June 18, 2002) as evidenced by Wong et al (Diabetes [2005] 54: 2032-2040; U on form PTO-892, newly cited and mailed herewith).

The claims are broadly drawn to MHC class II murine I-Ag7 or human HLA-DQ complexes comprising a GAD peptide selected from SEQ ID NOs: 1-13. Tisch teaches the administration of GAD peptides including SEQ ID NO: 2, 3 and 4 to non-obese diabetic (NOD) mice. Tisch teaches that each of the peptides prophylactically inhibited the development of diabetes in the mice and that the peptide comprising SEQ ID NO: 3 assisted in the prevention of the progression of insulinitis in NOD mice exhibiting autoimmunity (Abstract in particular). While Tisch does not disclose the MHC haplotype of the NOD mice, Wong et al evidences that NOD mice express I-A^{g7} (Abstract in particular). Accordingly, Tisch et al satisfy the metes and bounds of the claimed invention, as the peptide would inherently be bound by the I-Ag7 of the NOD mice immunized and there is no requirement for the claimed complex to be isolated. The prior art teaching anticipates the claimed invention. Claim 54 is included because an antigen presenting cell will bear on its surface at least 4 MHC complexes, effectively rendering the cell at least a tetrameric complex.

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Conclusion

2. Claims 1-4, 11-16 and 53 are allowed.

3. Claims 24,25, and 32-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Pierre VanderVegt whose telephone number is (571) 272-0852. The examiner can normally be reached on M-Th 6:30-4:00 and Alternate Fridays 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

F. Pierre VanderVegt, Ph.D.
Patent Examiner
May 1, 2006

PV

David A. Saunders
DAVID SAUNDERS
PRIMARY EXAMINER
ART UNIT 182 — 1644